



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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June 20, 2013

William L. Smith, Jr.
1616 Earl L. Core Road
Morgantown, WV 26505

**RE: CU13-11 / William L. Smith / 1616 Earl L. Core Road
Tax Map 32, Parcel 36**

Dear Mr. Smith:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for the "Farmers Market" / "Outdoor Flea Market" use at 1616 Earl L. Core Road. The decision is as follows:

Board of Zoning Appeals, June 19, 2013:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved your conditional use petition with the following conditions:
 - a. That the hours of operation for the "Farmers' Market" / "Outdoor Flea Market" use approved herein may not coincide or overlap with the hours of operation for the *Smitty's Kountry Kitchen* establishment.
 - b. That no more than eight (8) vendors may be present at any given time during the hours of operation for the "Farmers' Market" / "Flea Market" conditional use approved herein.
 - c. That the conditional use granted herein is specific to the petitioner and may not be transferred without prior approval from the Board of Zoning Appeals.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the applicant.

Should you have any questions or require further clarification, please contact the undersigned.

Respectfully,

Stacy Hollar
Executive Secretary
Development Services Department
shollar@cityofmorgantown.org

ADDENDUM A – Approved Findings of Fact
CU13-11 / William L. Smith / 1616 Earl Core Road

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

The Board's conditions restricting the operational hours of the "Farmer's Market" / "Outdoor Flea Market" and restricting the number of vendors is intended to mitigate congestion that may be associated with the conditional use.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

All related building and fire code provisions will be addressed as required by the Code Enforcement Division and the City Fire Marshal.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

No permanent structure is proposed or necessary for the conditional "Farmer's Market" / "Outdoor Flea Market" use that would alter existing light distribution and air flow patterns within the general vicinity.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

Site use will be limited and there is adequate space for parking and vendors, provided the Board's conditions are observed restricting the "Farmer's Market" / "Outdoor Flea Market" operational hours and the number of vendors. Additionally, no permanent structure is proposed or necessary for the occasional "Farmer's Market" / "Outdoor Flea Market" use that would result in increasing the mass, density, or intensity of the existing structure.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

People will generally be quick in and out and can move about easily, provided the Board's conditions are observed restricting the "Farmer's Market" / "Outdoor Flea Market" operational hours and the number of vendors. Additionally, a residential use is not proposed as a part of the conditional "Farmer's Market" / "Outdoor Flea Market" use.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The nature of the conditional "Farmer's Market" / "Outdoor Flea Market" use does not appear to require public services and/or facilities that are not already available to and serving the site and general vicinity.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

No permanent structure is proposed or necessary for the conditional "Farmer's Market" / "Outdoor Flea Market" use that would alter market values or commercial activity of adjacent buildings and uses. Additionally, the Board's conditions restricting the operational hours of the "Farmer's Market" / "Outdoor Flea Market" and restricting the number of vendors is intended to conserve existing normal, access, utilization, and enjoyment of adjoining properties.

Finding of Fact #8 – The most appropriate use of land is NOT encouraged, in that:

The Board's condition restricting the operational hours of the "Farmer's Market" / "Outdoor Flea Market" is intended to safeguard the principal use of the subject site from overlay or

encroachment from the occasional use. The subject site is located within a heavily traveled and vibrant commercial corridor with adjoining residential neighborhoods, all of which should serve to benefit from the occasional “Farmer’s Market” / “Outdoor Flea Market” use.